

State Human Rights Committee
2007 Annual Report
On the Status of the
DMHMRSAS Human Rights System

Approved by the SHRC on May 30, 2008

Presented to the
State Mental Health, Mental Retardation and Substance Abuse Services Board
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Message from the SHRC Chair and the Director of Human Rights

This annual report presents the activities and achievements of the State Human Rights Committee (SHRC) and the Office of Human Rights (OHR) in 2007 in accordance with our duties and responsibilities under the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services*. It is our hope that this report enlightens you about the protection of the human rights of individuals receiving services and the contributions of Virginia's citizens who serve as volunteers to assure these rights.

The State Human Rights Committee continued its long-standing practice of conducting its meetings at community programs and state facilities across the Commonwealth. This practice is extremely important to our consumers, families, volunteers, staff, SHRC members and the Office of Human Rights staff. It provided first-hand knowledge and familiarity with services that are available and provided in a variety of settings. We held meetings at four state facilities, two private providers, one community college and two Community Services Boards/Behavioral Health Authorities. These meetings provided opportunities for the SHRC to receive feedback from consumers about quality of care, meet our service providers, visit community-based programs and share points of view about human rights issues. Consumers, staff, and family members also shared their experiences and ideas as to how the SHRC could improve the effectiveness and efficiency of services delivered in facility and community settings.

A critical function of the SHRC is to serve as the final step in the complaint resolution process. In 2007, approximately 4,615 allegations of abuse or neglect and 1,259 human rights complaints were managed through the statewide human rights system and all but five of those were resolved at the provider level. The SHRC heard three of those complaints on appeal. If responsiveness to consumer complaints is an indicator of system success, then the fact that over 99.999% of complaints are resolved at the lowest level indicates a highly effective system of dispute resolution. The SHRC commends the consumers, providers, advocates and family members who worked together to resolve these issues.

During the past year the SHRC continued its efforts to increase monitoring of the human rights system through the development of goals and objectives that address specific areas of concern. The committee engaged in dialogue with staff regarding the committee's concern about the quality of treatment and limitations the system imposes upon consumers including delay in discharge and smoking policies. More details about our goals, objectives and activities can be found beginning on page 13 of this report.

Providing support and guidance to local human rights committees is one of the most important responsibilities of the SHRC. One way the SHRC accomplishes this responsibility is by continuing the practice of members visiting local human rights committees. The committee finds these visits to be an excellent way for SHRC members to obtain first hand knowledge of the

problems and progress of the local committees as well as providing an opportunity to provide guidance and increase communication. Many local committee members were honored in April 2007 during the State DMHMRSAS Board Volunteer Luncheon. Committee members were presented service awards from the First Lady, Anne Holton.

Increasing communication to local committees is also accomplished through the publishing of the SHRC newsletter Human Writes. Editor Davey Zellmer successfully published four volumes of Human Writes in 2007. Copies of those editions can be found in the appendix of this report.

Another way in which the SHRC supports the local committees and increases communication is by holding state wide training for local committee members. The 2007 SHRC/LHRC Seminar was held in mid September in Richmond and was attended by over 230 persons. The major focus of the Seminar was training on the revised regulations. The Seminar gave State and local committee members the opportunity to learn and socialize together.

The SHRC continues to be very active in its role as local committee for the Virginia Center for Behavioral Rehabilitation (VCBR). In reviewing VCBR policies the committee has made a number of recommendations to staff regarding policies that were overly restrictive. As a result of maintaining open communication with staff, the committee has been successful in getting staff to change some policies and practices to be less restrictive and at the same time to maintain the necessary security required. The committee also used the Level 3 Complaint process to recommend less restrictive practices to the facility.

We extend our sincere gratitude to the Office of Human Rights staff and our volunteers who serve on Local Human Rights Committees and the State Human Rights Committee for their tremendous effort in support of the human rights program. We are proud of this year's accomplishments and look forward to the future with confidence that with our dedicated staff, loyal volunteers and the support of the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services, we will succeed in making this program the best possible.

Mr. Kirby Wright., Chair
State Human Rights Committee

Margaret Walsh, Director
Office of Human Rights

Overview

The Department's Office of Human Rights, established in 1978, has as its basis the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services*. The Regulations outline the Department's responsibility for assuring the protection of the rights of consumers in facilities and programs operated, funded and licensed by DMHMRSAS.

Title 37.2-400, Code of Virginia (1950), as amended, and the Office of Human Rights assure that each consumer has the right to:

- Retain his legal rights as provided by state and federal law;
- Receive prompt evaluation and treatment or training about which he is informed insofar as he is capable of understanding;
- Be treated with dignity as a human being and be free from abuse and neglect;
- Not be the subject of experimental or investigational research without his prior written and informed consent or that of his legally authorized representative.
- Be afforded the opportunity to have access to consultation with a private physician at his own expense;
- Be treated under the least restrictive conditions consistent with his condition and not be subjected to unnecessary physical restraint or isolation;
- Be allowed to send and receive sealed letter mail;
- Have access to his medical and mental records and be assured of their confidentiality;
- Have the right to an impartial review of violations of the rights assured under section 37.1-84.1 and the right to access legal counsel; and
- Be afforded the appropriate opportunities... to participate in the development and implementation of his individualized service plan.

The State Human Rights Committee's function is to monitor and make suggestions regarding the protection of the legal and human rights of consumers who receive services in programs or facilities operated, funded or licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services, and to ensure that services are provided in a manner compatible with human dignity and under the least restrictive conditions consistent with the consumer's needs and available services. The SHRC has the responsibility of monitoring and evaluating the implementation and enforcement of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services* promulgated pursuant to §37.2-400 of the Code of Virginia, as amended.

The State Human Rights Committee (SHRC)

- ◆ The SHRC consists of nine members appointed by the State Mental Health, Mental Retardation and Substance Abuse Services Board (hereinafter the Board).
 - a. Members shall be broadly representative of professional and consumer interests and of geographic areas of the Commonwealth. At least two members shall be

individuals who are receiving services or have received within five years of their initial appointment public or private mental health, mental retardation, or substance abuse treatment or habilitation services. At least one-third shall be consumers or family members of similar individuals.

- b. At least one member shall be a health care professional.
- c. Members cannot be an employee or Board member of the Department or a Community Services Board.
- d. If there is a vacancy, interim appointments may be made for the remainder of the unexpired term.
- e. A person may be appointed for no more than two consecutive terms. A person appointed to fill a vacancy may serve out that term, and then be eligible for two additional consecutive terms.

Duties and Responsibilities:

- ◆ Elect a chair from its own members who shall:
 - a. Coordinate the activities of the SHRC;
 - b. Preside at regular meetings, hearings and appeals; and
 - c. Have direct access to the Commissioner and the Board in carrying out these duties.
- ◆ Upon request of the Commissioner, Human Rights Advocate, provider, Director, an individual or individuals receiving services, or on its own initiative, the SHRC may review any existing or proposed policies, procedures, or practices that could jeopardize the rights of one or more individuals receiving services from any provider. In conducting this review, the SHRC may consult with any Human Rights Advocate, employee of the Director, or anyone else. After this review, the SHRC shall make recommendations to the Director or Commissioner concerning changes in these policies, procedures, and practices.
- ◆ Determine the appropriate number and geographical boundaries of LHRCs and consolidate LHRCs serving only one provider into regional LHRCs whenever consolidation would assure greater protection of rights under the regulations.
- ◆ Appoint members of LHRCs with the advice of and consultation with the Commissioner and the State Human Rights Director.
- ◆ Advise and consult with the Commissioner in the employment of the State Human Rights Director and Human Rights Advocates.
- ◆ Conduct at least eight regular meetings per year.
- ◆ Review decisions of LHRCs and, if appropriate, hold hearings and make recommendations to the Commissioner, the Board, and providers' governing bodies regarding alleged violations of individuals' rights according to the procedures specified in the regulations.
- ◆ Provide oversight and assistance to LHRCs in the performance of their duties hereunder, including the development of guidance documents such as sample bylaws, affiliation agreements, and minutes.

- ◆ Review denials of LHRC affiliations.
- ◆ Notify the Commissioner and the State Human Rights Director whenever it determines that its recommendations in a particular case are of general interest and applicability to providers, Human Rights Advocates or LHRCs and assure the availability of the opinion or report to providers, Human Rights Advocates, and LHRCs as appropriate. No document made available shall identify the name of individuals or employees in a particular case.
- ◆ Grant or deny variances according to the procedures specified in Part V (12 VAC 35-115-220) of the regulations and review active variances at least once every year.
- ◆ Make recommendations to the Board concerning proposed revisions to the regulations.
- ◆ Make recommendations to the Commissioner concerning revisions to any existing or proposed laws, regulations, policies, procedures, and practices to ensure the protection of individuals' rights.
- ◆ Review the scope and content of training programs designed by the department to promote responsible performance of the duties assigned under the regulations by providers, employees, Human Rights Advocates, and LHRC members, and, where appropriate, make recommendations to the Commissioner.
- ◆ Evaluate the implementation of the regulations and make any necessary and appropriate recommendations to the Board, the Commissioner, and the State Human Rights Director concerning interpretation and enforcement of the regulations.
- ◆ Submit a report on its activities to the Board each year.
- ◆ Adopt written bylaws that address procedures for conducting business; making membership recommendations to the Board; electing a chair, vice chair, secretary and other officers; appointing members of LHRCs; designating standing committees and their responsibilities; establishing ad hoc committees; and setting the frequency of meetings.
- ◆ Review and approve the bylaws of LHRCs.
- ◆ Publish an annual report of the status of human rights in the mental health, mental retardation, and substance abuse treatment and services in Virginia and make recommendations for improvement.
- ◆ Require members to recuse themselves from all cases where they have a financial, family or other conflict of interest.
- ◆ Perform any other duties required under the regulations.

Mission Statement

The Office of Human Rights assists the Department in fulfilling its legislative mandate under §37.2-400 of the Code of Virginia to assure and protect the legal and human rights of individuals receiving services in facilities or programs operated, licensed or funded by the Department.

The mission of the Office of Human Rights is to monitor compliance with the human rights regulations by promoting the basic precepts of human dignity, advocating for the rights of persons with disabilities in our service delivery systems, and managing the DMHMRSAS Human Rights dispute resolution program.

Structure

The Office of Human Rights is located within the Department of Mental Health, Mental Retardation and Substance Abuse Services and is supervised by the State Human Rights Director. The State Human Rights Director oversees statewide human rights activities and provides guidance and direction to human rights staff.

The **State Human Rights Committee** consists of nine volunteers, who are broadly representative of various professional and consumer groups, and geographic areas of the State. Appointed by the State Board, the SHRC acts as an independent body to oversee the implementation of the human rights program. Its duties include to: receive, coordinate and make recommendations for revisions to regulations; review the scope and content of training programs; monitor and evaluate the implementation and enforcement of the regulations; hear and render decisions on appeals from complaints heard but not resolved at the LHRC level; review and approve requests for variances to the regulations; review and approve LHRC bylaws, and; appoint LHRC members.

The **Local Human Rights Committees** are committees of community volunteers who are broadly representative of various professional and consumer interests. LHRCs play a vital role in the Department's human rights program, serving as an external component of the human rights system. LHRCs review consumer complaints not resolved at the program level; review and make recommendations concerning variances to the regulations; review program policies, procedures and practices and make recommendations for change; conduct investigations; and review restrictive programming.

Advocates represent consumers whose rights are alleged to have been violated and perform other duties for the purpose of preventing rights violations. Each state facility has at least one advocate assigned. Advocates who serve state facilities and regional advocates are assigned to community public and private programs. The Commissioner in consultation with the State Human Rights Director appoints advocates. Their duties include investigating complaints, examining conditions that impact consumer rights and monitoring compliance with the human rights regulations.

State Human Rights Committee Members

Mr. Kirby Wright Chairperson

Mr. Wright is Director of R.C. Right Group Home in Danville, Virginia, and is a former member and Chair of the Southern Virginia Mental Health Institute Local Human Rights Committee. He was a positive driving force of the local committee and has been an active and respected member of the state committee. Mr. Wright resides in Danville.

Ms. Christina Delzingaro Vice Chair

Ms. Delzingaro is Director of Career Development and Support Services with Goodwill Industries, serving Central Virginia and Hampton Roads. She is the former Personnel and Quality Assurance Coordinator for Central Virginia Community Services Board in Lynchburg, Virginia, and a former Executive Director of the ARC of the Piedmont in Charlottesville, Virginia. She has served on the Western State Hospital Local Human Rights Committee as a consumer representative. Ms. Delzingaro resides in Richmond.

Dr. Angela Brosnan

Dr. Angela S. Brosnan, Psychiatrist. Dr. Brosnan was appointed on March 15, 2002. Dr. Brosnan was staff Psychiatrist and Medical Director of the substance abuse program at the Mental Health Clinic of McGuire Veterans Administration Hospital in Richmond. She also served as Consultant on Psychiatry for Child Neurology at the Bureau of Crippled Children in Richmond, Chairman of the Physician's Consulting Group at St. Mary's Hospital in Richmond, and President of the Richmond Psychiatric Society. Dr. Brosnan is a member of the Medical Malpractice Advisory Panel to the Supreme Court of Virginia. Dr. Brosnan resides in Richmond.

Ms. Carmen Anne Thompson

Mrs. Carmen Anne Thompson was appointed on June 28, 2002. Ms. Thompson served two consecutive terms on the Catawba Hospital Local Human Rights Committee (LHRC), during which time she consistently demonstrated her personal commitment to the protection of human rights. She was an outstanding member of the LHRC and served as Chair during her second term. She is a mental health consumer and has family receiving substance abuse services. Ms. Thompson has a background in education and motivational speaking. Ms. Thompson resides in Moneta (beautiful Smith Mountain Lake), Virginia.

Ms. Davey Zellmer

Ms. Doris "Davey" Zellmer was appointed on June 28, 2002. At the time of her appointment she was serving as Chair of the Northern Virginia Training Center LHRC. Ms. Zellmer is a retired Registered Nurse and an ANA Certified Psychiatric Nurse. She

served as Director of the Rehabilitation Services Unit, Director of the Community Care Unit, and Director of the Social Center for Psychiatric Rehabilitation at the Mount Vernon Center for Community Mental Health in southern Fairfax County. Ms. Zellmer has a son who is receiving services in the community. Ms. Zellmer resides in Fredericksburg.

Ms. Delores Archer

Ms. Delores Archer is Director of Intake and Referral Service for the Department of Psychiatry at VCU Medical Center. She has clinical training and expertise in the field of social work and has practiced in the private and public sectors. Ms. Archer has extensive knowledge and experience with the human rights system and the Department through her past membership on the SHRC. Ms. Archer resides in Richmond.

Mr. Joseph Lynch

Joseph G. Lynch, LCSW is a founding partner of Newman Avenue Associates, P.C., in Harrisonburg, which provides therapy and consulting services to individuals, couples, groups and families. He has also served as Director of Family Counseling Services, Inc., in Harrisonburg, Virginia, and was responsible for administration and delivery of direct clinical services to individuals, families, groups and organizations. Perhaps most importantly, Mr. Lynch is a cofounder and former clinical staff member of Shenandoah Valley Sex Offenders Treatment Program, P.C., in Harrisonburg. Mr. Lynch resides in Harrisonburg.

Dr. Jannie Robinson

Dr. Jannie Robinson is the Assistant Vice-President for Student Affairs at Norfolk State University. She is a Licensed Clinical Social Worker with experience in social work and psychotherapy and has received training in substance abuse services. Prior to her appointment to the State Human Rights Committee she served on the Chesapeake Regional Local Human Rights Committee. Dr. Robinson was appointed to the SHRC by the State DMHMRSAS Board on August 21, 2007, for a term of July 1, 2007 to June 30, 2010. Dr. Robinson resides in Chesapeake, VA.

Donald Lyons

Mr. Donald Lyons is a retired State Police Officer from Hillsville, Virginia. He has experience as a supervisor in the Bureau of Criminal Investigation, Drug Investigative Unit for the far southwestern area of Virginia. Mr. Lyons is a former member of the Southwestern Virginia Training Center Local Human Rights Committee and served as Chair during his tenure on that committee. Mr. Lyons was appointed to the SHRC by the State DMHMRSAS Board on August 21, 2007, for a term of July 1, 2007 to June 30, 2010.

Officer Appointments / Membership Changes

Effective July 1, 2006

Mr. Kirby Wright Chair

Ms. Christina Delzangaro, Vice Chair

Term expired on June 30, 2007

Dr. Michael Marsh

Dr. Joyce Bozeman

Terms beginning July 1, 2007

Ms. Jannie Robinson

Mr. Donald Lyons

State Human Rights Committee Activities

- **The SHRC approved Bylaws of six local human rights committees.**

Universal Family LHRC

- **Variances**

Variances were approved for the following providers.

12 VAC-35-115-100-Time Out (Structured Living Protocol)

Poplar Springs Hospital
Virginia Beach Psychiatric
Specialized Youth Services
Keystone Newport News
The Pines Residential Center
Barry Robinson

12 VAC-35-115-50, C7, C8 Dignity (Visitors and phones)

Blue Ridge Behavioral Health Care - Hegira House and Shenandoah Recovery
Cumberland Mountain - The Laurels
New River Valley CSB - Bethany Hall, New Life Recovery

12 VAC-35-115-90 Confidentiality (HIPPA)

Piedmont Geriatric Hospital

12 VAC-35-115-50, C3d, Dignity (windows)

Youth Empowerment Services

12 VAC-35-115-110 B2 (Time frame for orders)

Western State Hospital

- **LHRC Appointments**

The SHRC appointed 143 individuals to serve on Local Human Rights Committees.

- **Meetings**

In 2007 the State Human Rights Committee held the following meetings:

January 26	Southside Virginia Training Center Petersburg, Virginia
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March 9	Goochland-Powhatan Community Services Board Powhatan, Virginia
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April 20	Danville Community College Danville, Virginia
June 1	Southwestern Virginia Mental Health Institute Marion, Virginia
July 13	Northern Virginia Training Center Fairfax, Virginia
September 7	Western State Hospital Staunton, Virginia
October 26	Sentara Obici Hospital Suffolk, Virginia
November 11	Special Meeting Rappahannock Area CSB Fredricksburg, Virginia
December 7	Youth Empowerment Services Richmond, Virginia

Meeting at various facilities and programs throughout the state provides the Committee with first hand knowledge and familiarity with the kinds of services available to consumers and the settings within which services are provided.

- **Case Reviews**

Making decisions regarding consumer appeals is among the most challenging and important tasks for the SHRC. A total of more than **5870** human rights and abuse/neglect complaints were processed through the human rights resolution process in 2007. All but five of these cases were resolved at the Directors level or below. Those five cases were appealed to local human rights committees and three of those cases were brought before the State Human Rights Committee on appeal. Each case provided the consumer with an additional opportunity to be heard regarding their human rights complaint. These appeals are the culmination of the human rights process and the decisions rendered by the SHRC provide guidance to LHRCs, facilities and programs across the state.

The Virginia Center for Behavioral Rehabilitation (VCBR) has a unique complaint resolution process that includes three levels of review. VCBR complaints are not appealed to either the local or the state human rights committee but rather to the VCBR Appeals Committee, which includes a member of the SHRC. There were a total of **292** complaints processed through the VCBR complaint process in 2007. Seven of those complaints were appealed to and decided by the VCBR Appeals Committee.

Issues addressed in decisions rendered by the SHRC, the VCBR Appeals Committee and local committees this past year included:

- * right to protection from harm, abuse and exploitation
- * Right to confidentiality
- * right to treatment with dignity
 - Room searches
 - Missing property
 - Rules for visitors
 - Religious and political beliefs
- * right to informed consent
- * right to participation in decision-making
- * right to freedoms of everyday life
- * right to access and correct record
- * right to services (including medical services and CSB services in jails)

SHRC Biennium Goals and Recommendations for 2008-10

Biennium Goal #1

Periodic review of the human rights regulations began in the fall of 2004. The SHRC recommends that this review include, but not be limited to, the following:

- Conforming the regulations with HIPAA
- Pursuing ways of increasing the effectiveness and efficiency of the LHRC system
- 12 VAC-35-115-50 (4) c and (5) regarding the type of professional that can approve the limit of phone access or visitors in SA programs
- 12 VAC 35-115-30 and 100 regarding Time Out
- Reporting requirements

Progress toward Biennium Goal #1 to date:

2005 SHRC activities related to goal #1 included committee members participating on the Human Rights Regulation Revision (H3R) Advisory Committee and the Participation in Decision Making Subcommittee.

The Department used the report of the H3R Advisory Committee as the chief document for advising on the revisions to the human rights regulations.

The Department received 88 comments from individuals and groups during the public comment period what was held in late 2006. The Department revised the regulations based on some of those comments and submitted the regulations to the State MHMRSAS Board for approval. On May 4, 2007, the State MHMRSAS Board approved the regulations for submission to the Executive Branch for final action.

The Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Mental

Health, Mental Retardation and Substance Abuse Services went into effect on September 19, 2007

Goal #1 accomplished as of 9/19/07.

Biennium Goal # 1 (new for 2008)

Promote consistent statewide implementation of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services*.

Indicators include:

- Updated policies and procedures
- Training
- Resources

Biennium Goal #2

The SHRC will promote the department's system transformation including the concepts of recovery and self empowerment.

Indicator:

- Consumers report satisfaction with quality of life and decision-making.

Progress toward Biennium Goal #2 to date:

James S. Reinhard, M.D., Commissioner, presented an overview of Self Determination, Empowerment and Recovery, to the SHRC during its meeting on December 3, 2004.

Three members of the SHRC attended the Governors Conference on Self Determination, Empowerment and Recovery, in Richmond on December 9 and 10, 2004.

The SHRC issued a statement supporting the concepts of Self Determination, Empowerment and Recovery on April 27, 2005.

The SHRC heard a presentation by Medical Director James Evans on the Department's plans to promote smoke-free facilities in a manner consistent with the concepts of recovery, self-determination and empowerment.

The SHRC received information about the implementation of the changes to Medicare Part D and the potential impact on individuals in our system. The SHRC was heartened to learn of the efforts of providers to assist individuals through this change.

On October 27, 2006, SHRC heard a presentation from Dr. James Reinhard on System Transformation and Recovery.

The SHRC learned about the DMHMRSAS system efforts to promote Person Centered Planning from Lee Price in January 2008. Frank Tetrick educated the committee about the various consumer satisfaction surveys addressing recovery and service quality.

Biennium Goal #3

The SHRC recommends that DMHMRSAS continue to promote the human rights concepts of treatment in the most integrated settings, and consumer and family choice that are central to the Olmstead Decision.

- Monitor state facility ready-for-discharge lists on a quarterly basis.

Indicators:

- ❖ Discharge lists will be reduced;
- ❖ Individuals are satisfied with services and life after discharge.

- Join and monitor the efforts of the Department and VACSB to increase the number of substitute decision makers.

Indicators:

- ❖ Providers support, teach and encourage individuals to make their own decisions.
- ❖ Public Guardianship funds are used appropriately to discharge individuals from training centers.
- ❖ Promote alternative decision making avenues such as Power of Attorney and Advance Directives. (New indicator in 2007)

- Monitor Department and system efforts toward maintaining youth in the community following their transition to adult services.

Indicators:

- ❖ Youth in transition will receive appropriate services
- ❖ Promote Provider Choice
 - a. Individuals receive services in a timely manner
 - b. Individuals and family members get full, unbiased choice of providers.

Progress toward Biennium Goal #3 to date:

The SHRC monitors the state MH facility discharge lists on a quarterly basis.

The SHRC requested that the Department provide an update on the status of services for youth in transition at its meeting on July 15, 2005.

Frank Tetrick, Assistant Commissioner, and Lee Price, Director of the Office of Mental Retardation (OMR), presented the OMR provider training schedule to the SHRC at its December 3, 2004 meeting. The SHRC recommended that human rights be included in some of the training modules.

Shirley Ricks, Director of Child and Family Services Office, and Kim McGaughy, Executive Director of the Office of Comprehensive Services, provided an update to the SHRC on the state's activities regarding children's services on July 15, 2005. The SHRC was impressed with the coordinated effort and is hopeful that it will result in improved services for youth in transition.

Russell Payne, DMHMRSAS Community Support Specialist, provided information to the SHRC at its meeting on March 10, 2006 regarding the Department and overall public system's discharge efforts. Mr. Payne will continue to report to the SHRC every six months.

Russell Payne reports that the number of individuals waiting for discharge from state facilities continues to decline. The SHRC will continue to monitor.

Consumer satisfaction surveys indicate satisfaction with quality of service and recovery efforts. The SHRC will continue to monitor this issue.

Lee Price reported on the successful use of Public Guardianship funds.

Ray Ratke, Deputy Commissioner presented information on the status of the Commonwealth's efforts to improve services to children and adolescents. The SHRC will continue to monitor this issue.

Biennium Goal #4

The SHRC recommends that DMHMRSAS continue to promote the concept of, and provide training in, treatment without coercion in state operated facilities and community based programs and hospitals.

- State Facilities will reduce the use of seclusion and restraint.

Progress toward Biennium Goal #4 to date:

The SHRC received a brief overview of TOVA concepts on October 22, 2004 and issued a letter of support and recommendation to Commissioner Reinhard on December 6, 2004.

The Department provides training on TOVA to community partners.

The Department will revise the TOVA manual in 2006. OHR staff will participate in the revision and provide updates to the SHRC.

The SHRC reviews and monitors data on the use of seclusion and restraint in state facilities

The SHRC received an update on the use of Therapeutic Options of Virginia (TOVA).

In 2007 the SHRC learned that the use of seclusion and restraint has increased in some state operated facilities. To address this problem, the Department applied for and received a SAMSHA grant to reduce the use of seclusion and restraint at CSH and CCCA. Members of CSH and CCCA local human rights committees serve on the advisory committee for this grant.

The SHRC will monitor the outcome of the Seclusion and Restraint grant.

Biennium Goal # 5

The SHRC will be efficient and effective.

- Required tasks will be completed in a timely manner

Biennium Goal # 6

The SHRC will monitor the Virginia Center for Behavioral Rehabilitation's adherence to the human rights regulations through reports, policies, and complaint resolution as needed at every meeting or as issues arise.

- Residents are treated with dignity and respect (new indicator)

Progress toward Biennium Goal #6 to date:

The SHRC receives a monthly report from the human rights advocate serving VCBR.

Members of the SHRC have toured VCBR twice since its opening. During these tours committee members met and spoke to some of the residents.

The SHRC receives updates on the plans for the construction of the new VCBR facility scheduled to open in 2008.

The SHRC reviewed 13 VCBR policies and procedures and participated in the review of 7 Level III complaints in 2006. The SHRC has reviewed more than 32 policies and procedures since the facility opened.

The SHRC reviewed 15 VCBR policies and procedures and participated in the review of 13 Level III complaints in 2007

Biennium Goal # 7

The SHRC will support Local Human Rights Committees.

- Each SHRC member will attend at least one LHRC meeting per year. SHRC members will provide prior notice to the LHRC chair requesting time on the agenda in order to make brief comments.
- Enhance communication with LHRCs.

Progress toward Biennium Goal #7 to date:

As of June 2005, seven SHRC members attended at least one meeting of a local human rights committee. Two SHRC members attended more than one local human rights committee meetings.

The Code of Virginia was changed in July 2005 to require each local and state committee to have a “health care provider”. The SHRC and OHR provided guidance to local committees on this change in the law. Most local committees are meeting this requirement at this time.

The SHRC issued newsletters in January and April 2006. (See Appendix II)

State and local human rights committees are “public bodies” and as such they are subject to the Virginia Freedom of Information Act (FOIA). The SHRC and OHR have provided training and resources to local committees on their responsibilities under FOIA in person, by guidance documents and via the newsletter. A change in FOIA as of July 2006 will require additional activities for public bodies.

The SHRC conducted a survey of the state facilities and staff of the human rights office to ascertain the level by which providers are complying with the requirement to provide LHRC administrative support (12 VAC 35-115-250 A, 11). The SHRC issued a reminder to state facilities and OHR staff about this requirement.

By June 2006, all SHRC members attended at least one meeting of a local human rights committee during the past year.

The SHRC reviewed materials and activities that local committees and providers are using to recruit new members.

The SHRC revised the LHRC application form in order to advance the interviewing and appointment process.

The SHRC issued guidance on bylaws, minutes and quorums.

The SHRC published 4 volumes of Human Writes in 2006.

SHRC members attended the 2007 LHRC/SHRC Seminar. SHRC members helped conduct the sessions “Open Forum, Can we talk?” and “How to Run a Successful Meeting”. This session provided participants the opportunity to share in an open dialogue about issues with the members of the SHRC.

The SHRC published 4 volumes of Human Writes in 2007.

Biennium Goal # 8

The SHRC will promote and provide ongoing training opportunities for all stakeholders.

- Enhance leadership skills of LHRC members

Progress toward Biennium Goal #8 to date:

The SHRC and OHR surveyed local committee members about training needs in April and May 2006. The results of the survey will guide the planning of the 2007 LHRC/SHRC Seminar. The seminar will focus on training for LHRC members rather than program staff.

The 2007 LHRC/SHRC Seminar was held on September 6th and 7th in Richmond Virginia. Over 230 volunteers attended the training event.

The evaluations for the Seminar were overwhelmingly positive.

Biennium Goal # 9

The SHRC will recognize the service of LHRC members.

Progress toward Biennium Goal #9 to date:

LHRC members were recognized at the State MHMRSAS Board luncheon in April 2007.

A member of a local committee is featured in each volume of Human Writes.

The SHRC is considering presenting future awards at the LHRC/ SHRC Seminar or the State Board Volunteer Luncheon.

Office of Human Rights Program Highlights

Staffing

The Office of Human Rights added one new staff in 2007 although she did not begin until January 2008. Ms. Ansley Perkins joined the Region IV team and is providing service to SVTC, CSH and community programs. Our friends and colleagues, Sonia Smith (Catawba Hospital, Roanoke Valley), Frances Rose (CVTC) and Anne Stiles (PGH, VCBR) retired in early 2008. These positions will be filled in the early part of 2008. The Office of Human Rights Directory/Roster and OHR Regions chart can be found in Appendix I.

The Office of Human Rights continues to operate with reduced staff resources. Over the past five years the OHR has lost two advocate positions, two secretary positions and one management position. These losses coincide with an increase in individuals served in the community, an increase in the number of private providers, and an increase in the number of local human rights committees. The current staffing pattern severely reduces the availability of the OHR to provide quality advocacy services. At risk is the availability of OHR staff to provide training to consumers, providers and professionals. Training is necessary to increase understanding and awareness of the regulations without which consumers could be at risk. The Department's overall system of consumer protection, including the Office of Licensing, is at risk due to the lack of staff resources.

The proliferation of new providers across the state has put an extra burden on already stretched staff. Regional staff worked with new providers to facilitate licensure in order to provide services to individuals. The numbers below do not reflect the number of actual service locations that a particular provider may operate. For example, a provider of sponsored residential services may provide service at 30 different locations.

The number of providers per region in 2007 is as follows:

- 106 in Region I
- 100 in Region II
- 67 in Region III
- 195 in Region IV
- 175 in Region V
- 81 in Region VI

The number of new providers per region in 2007 is as follows:

- 7 in Region I
- 6 in Region II
- 15 in Region III
- 28 in Region IV
- 38 in Region V
- 8 in Region VI

The number of LHRCs per region in 2007 follows:

- 11 in Region I
- 8 in Region II
- 7 in Region III
- 16 in Region IV
- 22 in Region V
- 8 in Region VI

The OHR continues to promote the cross training of all advocates. At this time, all advocates provide services to both community and state facility programs which strengthen both the community and facility programs by providing continuity of care and an increased emphasis on discharge planning and service development.

Efforts to promote compliance with the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services* continued throughout the year. OHR staff provided over 95 training events in 2007. These efforts included the following activities:

Training: OHR staff provided training to consumers, family members or providers at the following locations:

- Club Houses
- Psychiatric Hospitals
- Professional Organizations
- Parent Organizations
- Group Homes
- Residential Treatment Centers
- Training Centers
- Psychosocial Rehabilitation Programs
- Community Organizations
- Substance Abuse Programs
- Conferences/Meetings
- Community Services Boards
- Preadmission Screening Evaluator Certification (video tape)

Web based Information: Individuals can also access general information about the human rights program at www.dmhmrzas.virginia.gov. Click on Human Rights on the left side of the page.

This information includes:

- Notice of SHRC meetings
- Notice of Variance requests
- LHRC affiliations and meeting schedules
- Relevant legislative information
- OHR Directory
- SHRC Annual Reports
- Frequently Asked Questions (FAQs)
- Human rights training information including video tapes, power point slide presentations and workbook

- Sample Test Questions

Implementation of the revised Human Rights Regulations

The Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services went into effect on September 19, 2007. To assist providers with the implementation of the revised regulations, the Office of Human Rights (OHR) and the Office of the Attorney General (OAG) developed a DVD called “Overview of Changes to the Human Rights Regulations”. The DVD was mailed to all providers in the state along with the schedule for implementation of the revised regulations. Providers were given until December 1, 2007 to practice in accordance with the revised regulations and March 1, 2008 to revise their policies and procedures.

In addition to the free DVD that was mailed to all providers, the OHR and OAG conducted 6 day long trainings on the regulations in the fall of 2007. These training events were made available to other localities via video conferencing. A DVD of the day long trainings, along with other training resources, is available on the Department web page <http://www.dmhmrzas.virginia.gov/OHR>.

Training and Staff Development

Quarterly Advocate (QA) meetings were held at Western State Hospital on April 30th & May 1st, and July 30th & 31st. QA training was geared toward enhancing staff ability to effectively advocate for their consumers, and monitor the implementation of the regulations. Commissioner Reinhard and Deputy Commissioner Ray Ratke attended the meeting on May 1st to discuss work load issues, smoking cessation and the Departments efforts toward promoting recovery, empowerment and self determination. Other topics covered during the last year included the following: Virginia Freedom of Information Act (FOIA); ways to reduce the use of coercive treatment including forced medication; the human rights aspects of restrictions on certain personal freedoms such as smoking and sex; use of seclusion; revision of the regulations; regional updates; reporting of abuse and neglect; the revised complaint process; promoting recovery, self empowerment and self determination; leadership; and the LHRC/SHRC Seminar. These meetings also served to keep staff informed of relevant policy and legislative changes. One of the most important and beneficial aspects of the QA meetings is the regional updates. This provides a forum for all staff to share what is happening in their areas with each other. Staff uses this time to share ideas and promote creative problem solving.

Staff also helped conduct the six statewide training events held in October, November and early December. These were day long trainings on the revised regulations offered at no cost for consumers, providers, professionals and other interested parties. The training was attended by more than 800 individuals.

LHRC/SHRC Seminar

The 2007 LHRC/SHRC Seminar was held in Richmond on September 6th and 7th to coincide with the roll out of the new regulations on September 19, 2007. Over 230 individuals attended the seminar. Session topics included *Overview of Changes to the Regulations, Consent and Substitute Decision Making, How to Conduct a Hearing, LHRC Reviews & Approvals, Open Forum and How to Run a Successful Meeting*. The evaluations of the seminar were outstanding. Most participants felt that the seminar provided needed information and an opportunity to network with other volunteers. We hope to hold another seminar in early 2009.

Tobacco Free Environment

Upon the direction of the Commissioner, the 16 DMHMRSAS operated facilities and Central Office became tobacco free on October 10, 2007. The SHRC and OHR were involved in this process from the aspect of ensuring that consumers were involved in the planning and received the necessary support to achieve this goal. The SHRC and OHR continue to monitor the results of this effort. To date there have been only 2 human rights complaints filed on this matter.

System Transformation Efforts

Efforts to transform the DMHMRSAS system intensified during 2007. The horrible events of April 16, 2007 at Virginia Tech highlighted problems in the system. Several groups, including the Virginia Tech Panel, the Office of the Inspector General, the Supreme Court Justice's Commission on Mental Health Law Reform and the Department conducted evaluations of the system that resulted in recommendations to change the Code of Virginia. These recommendations for change in the Code included the criteria for commitment, the mandatory outpatient commitment process and the sharing of medical records. Each of the proposed area of change to the Code impact the rights of individuals served in the system. The SHRC and OHR plan to monitor the outcome of the proposed changes to the Code.

Additional system transformation efforts include the promotion of recovery, empowerment and self determination. A critical aspect of this is the use of the person centered planning approach throughout the system. The Person Center Planning Advisory Committee developed a model document that is currently under field review. This planning tool was developed for use with individuals with intellectual disabilities but can be used by all consumers.

Recovery efforts are moving forward in state facilities and community based programs. There is a statewide Recovery Council that promotes system wide efforts of recovery. Peer mentors and peer run centers are being developed and utilized as a means to enhance and support the recovery efforts of individuals with mental illness.

Reporting Requirements

The regulations require that providers report and investigate human rights complaints and allegations of abuse, neglect or exploitation. The Department is developing a web based reporting system that should help with having more accurate data. One area that providers continue to struggle with regarding reporting is events of peer on peer aggression. Hopefully the change in the regulations and the new web based system will help in this area. The new system should be operational by fall 2008.

Abuse/Neglect

State operated facilities continue to implement the Department's policy on abuse and neglect (DI 201) inconsistently. The OHR continues to promote compliance with this policy and the regulations. There is a team of facility directors working to revise this Departmental Instruction. The OHR, SHRC and some local committees have expressed concern that the system has no way, nor authority to track and impact the hiring of persons terminated for abuse or neglect. Some of these staff are working for other providers who are unaware of their history of abuse or neglect. There is not state wide data base that tracks this as is for Child Protective Services (CPS).

Projected Activities for 2008-09

The primary goal for the Office of Human Rights for the year 2008-09 is to provide quality advocacy services to consumers in programs operated, funded and licensed by the Department. This is always the central function of the OHR and all other goals and activities support this goal. In support of this goal a major activity for the upcoming year will be to promote consistent implementation of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services*. Other major projected activities for the Office of Human Rights for the year 2007-08 are as follows:

- A. Provide training and guidance on the human rights regulations.
- B. Implement a web-based human rights reporting system.
- C. Promote best practice models of recovery and self empowerment
- D. Provide support, training and guidance to local human rights committees
- E. Participate in the regional restructuring planning process.
- F. Promote coercion free environments statewide.
- G. Work with consumers, providers, family members, professionals and other stakeholders to identify options to improve the system and availability of alternative decision-makers.
- H. Promote consistency and accurate documentation of monitoring activities.
- I. Develop resources to assist consumers and providers as needed.

Local Human Rights Committees

Local Human Rights Committees continue to monitor the activities of facilities and community programs in assuring protection of consumers' rights. The volunteers who serve on these committees lend their time and expertise to ensure compliance with the Rules and Regulations. Committee members are appointed by the State Human Rights Committee and are eligible to serve two three-year terms. A listing of all 72 LHRCs and their program affiliates can be found in Appendix III.

All committees meet at least quarterly, with many meeting on a monthly basis. Local Human Rights Committees activities include:

- reviewing complaints filed on behalf of consumers;
- developing bylaws;
- reviewing variance requests;
- conducting fact-finding conferences;
- reviewing restrictive programs; and
- reviewing policies and procedures.

Advocates Activities

During the year, the human rights staff was involved in numerous activities to ensure and protect the rights of consumers. These activities included:

- Assisting consumers in presenting and resolving complaints;
- Educating consumers, families, staff and Local Human Rights Committees on the rights of consumers;
- Monitoring the implementation and compliance with the regulations;
- Assisting in developing, reviewing and amending human rights policies and procedures for the approximately 724 providers in the state;
- Providing training to staff, consumers, family members, LHRCs;
- Providing consultation on the human rights program to consumers, program staff, LHRCs, and advocacy and community groups.
- In addition to the above, the regional advocates provide advocacy services to community licensed public and private programs in their assigned service areas. They also provide supervision to the facility advocates in that area.
- Regional staff/teams prepared comprehensive Regional Reports for 2007. These reports provide detailed statistics and information about human rights activities in each of the six regions. Each Regional Team presented their report to the SHRC. Copies of the Regional Reports may be found at <http://www.dmhmr.sas.virginia.gov/OHR>.

Summary of Community Program Abuse/Neglect and Complaint Allegations

The following table reflects statistics on abuse/neglect allegations/substantiation and human rights complaints from community programs for the years 2002, 2003, 2004, 2005 and 2006. This information is reported to the Regional Advocates from the Community Service Boards (CSB) and private providers.

- There were 615 formal human rights complaints as reported to Regional Advocates in 2007. This is down from 689 in 2006. The number of human rights complaints fluctuates greatly from year to year as evidenced by the table below. The Office of Human Rights understands the fluctuation as a function of many factors including improved management of informal complaints, better understanding of the provider duties under the regulations, increased provider training and consultation, better general understanding of the regulations and improved LHRC oversight. Next years data will include all complaints managed informally as well so we would expect an increase in numbers in next years report.
- There were 4007 allegations of abuse and/or neglect as reported to Regional Advocates in 2007. The large increase in allegations results from the large number of peer on peer incidents that were investigated as potential neglect. Most providers only began reporting peer on peer incidents in the last two years so the data on these types of incidents are new.
- There were 340 substantiated cases of abuse and or neglect as reported to Regional Advocates in 2007, which is up slightly from 334 reported in 2006. While this number of substantiated cases has increased it has not increased in relation to the number of allegations. The rate of allegations of abuse and neglect to substantiated cases continues to decline from 14% in 2005, 10% in 2006 to 8% in 2007.
- Because of the many variables affecting this data it is best used as a tool for quality improvement for a specific provider rather than a tool for comparison among providers or regions.

Community Programs

	Abuse Allegations	Abuse cases Substantiated	Human Rights Complaints
2001	899	162	840
2002	1094	215	785
2003	1626	252	380
2004	*1694	*276	*534
2005	1938	286	849
2006	** 3098	** 334	**689
2007	** 4007	**340	** 615

*Incomplete data

** Data from Regional Reports

Summary of State Facility Human Rights Complaints and Abuse/Neglect Allegations

(Data source is CHRIS)

- There were 650 formal human rights complaints in state facilities in 2007. The combined total of formal (650) and informal (1149) is 1799. This is 255 fewer complaints than in 2006. This decrease is primarily due to the correction of the data collection process at WSH.
- Six hundred twenty eight (628) of the facility complaints were resolved at the Director's level or below. Two (2) human rights complaints were heard on appeal at the LHRC level and 1 of those complaints were heard on appeal at the SHRC level.
- There were 608 allegations of abuse/neglect in the state facilities. This number is fluctuating due to the inconsistent application of Departmental Instruction (DI) 201 on the reporting and investigating of allegations of abuse and neglect.
- The number of substantiated cases of abuse and neglect increased in 2007 from 92 in 2006 to 118 in 2007.
- The previous regulations provided for an Informal Complaint [12 VAC 35-115-160] process that is conducted by the provider prior to the involvement of the Human Rights Advocate. The Informal Process was widely and variably utilized within state operated facilities. During 2007 there were 1149 Informal Complaints processed within state operated facilities. Informal Complaints were not captured as separated complaints with the promulgation of the revised regulations in September 2007.
- Because of the many variables affecting this data it is best used as a tool for quality improvement for a specific facility rather than in comparison among or between facilities.

State Facility
Abuse/Neglect Data

#Allegations/ #Substantiated

	2002	2003	2004	2005	2006	2007
Catawba	16/0	8/0	12/5	8/0	10/1	11/1
Central State	172/28	148/27	119/10	131/14	127/25	156/18
CVTC	73/13	63/18	51/13	53/17	21/5	60/16
CCAA	12/0	11/0	11/0	8/0	4/1	6/4
Eastern State	71/12	79/14	92/8	68/7	72/12	78/4
Hiram Davis	10/4	9/1	7/1	11/1	6/0	7/0
NVMHI	65/4	49/4	29/1	47/3	13/2	16/6
NVTC	16/7	11/5	12/7	10/6	5/3	16/10
Piedmont	17/4	6/3	9/1	13/2	7/3	7/1
SEVTC	47/13	71/19	29/8	38/10	34/11	20/10
SVMHI	14/0	21/1	6/2	3/1	3/1	5/0
SVTC	39/12	60/23	70/27	70/28	67/17	101/25
SWVMHI	40/3	34/3	32/7	26/2	20/1	19/4
SWVTC	71/6	66/9	71/7	53/12	29/5	67/13
Western State	33/5	24/6	15/1	10/7	17/5	25/6
VCBR					13/0	14/0
Totals	686/112	660/133	565/98	549/110	448/92	608/118

State Facility
Formal Human Rights Complaints

	2002	2003	2004	2005	2006	2007
Catawba	122	40	22	36	8	8
Central State	109	179	193	58	51	97
CVTC	191	42	11	17	5	8
CCAA	34	8	1	3	0	0
Eastern State	53	84	101	32	58	54
Hiram Davis	1	1	2	1	4	1
NVMHI	99	52	51	57	4	6
NVTC	4	0	0	1	0	0
Piedmont	69	77	76	68	52	42
SEVTC	5	2	3	6	4	3
SVMHI	24	31	26	11	15	39
SVTC	12	7	10	11	13	6
SWVMHI	80	41	28	39	26	14
SWVTC	19	17	15	0	5	10
Western State	239	171	241	261	263	70
VCBR					160	292
Totals	1061	752	780	601	668	650

State Facility
Informal Complaints

	2003	2004	2005	2006	2007
Catawba	29	35	47	29	22
Central State	29	21	99	132	177
CVTC	71	18	9	178	201
CCAA	21	22	36	45	25
Eastern State	502	373	317	468	169
Hiram Davis	5	3	2	3	0
NVMHI	40	75	57	15	5
NVTC	2	1	1	0	0
Piedmont	23	18	16	26	22
SEVTC	14	6	3	6	4
SVMHI	4	19	12	12	13
SVTC	4	11	13	24	10
SWVMHI	144	81	58	68	150
SWVTC	27	19	31	18	9
Western State	232	202	270	357	333
Totals	1147	904	971	1381	1149

APPENDIX

I

OFFICE OF HUMAN RIGHTS DIRECTORY
OFFICE OF HUMAN RIGHTS REGIONS

APPENDIX

II

Human Writes

APPENDIX

III

Local Human Rights Committees and Affiliations